AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF MAURITIUS REGARDING MUTUAL ASSISTANCE BETWEEN THEIR CUSTOMS ADMINISTRATIONS

The Government of the United States of America and the Government of the Republic of Mauritius, hereinafter referred to as "the Parties";

Considering that offenses against customs laws are prejudicial to the economic, fiscal and commercial interests of their respective countries;

Considering the importance of assuring the accurate assessment of customs duties and other taxes;

Recognizing the need for international cooperation in matters related to the administration and enforcement of the customs laws of their respective countries;

Having regard to the international conventions containing prohibitions, restrictions and special measures of control in respect of specific goods;

Convinced that action against customs offenses can be made more effective by cooperation between their Customs Administrations; and

Having regard to the Recommendation of the Customs Cooperation Council regarding Mutual Administrative Assistance of December 5, 1953;

Have agreed as follows:

ARTICLE I

DEFINITIONS

For the purposes of the present Agreement:

1. the term "Customs Administration" means, in the United States of America, United States Customs and Border Protection and United States Immigration and Customs Enforcement, Department of Homeland Security, and in the Republic of Mauritius, the Mauritius Revenue Authority;

2. the term "customs laws" means the laws and regulations enforced by the Customs Administrations concerning the importation, exportation, and transit or circulation of goods as they relate to customs duties, charges, and other taxes or to prohibitions, restrictions, and other similar controls respecting the movement of controlled items across national boundaries;

3. the term "information" means data in any form, documents, records, and reports or certified copies thereof;

4. the term "offense" means any violation or attempted violation of the customs laws;

5. the term "person" means any natural or legal person;

6. the term "property" means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or an interest in such assets;

7. the term "provisional measures" includes "seizure" or "freezing," which means:

   a. temporarily prohibiting the conversion, disposition, movement, or transfer of property, or

   b. temporarily assuming custody or control of property on the basis of an order issued by a court or competent authority, or other means;

8. the term "forfeiture" means the deprivation of property by order of a court or competent authority and includes confiscation where applicable;

9. the term "requesting Administration" means the Customs Administration that requests assistance;

10 the term "requested Administration" means the Customs Administration from which assistance is requested.

ARTICLE 2

SCOPE OF AGREEMENT

1. The Parties, through their Customs Administrations, shall assist each other, in accordance with the provisions of this Agreement, in preventing, investigating, and repressing any offense.

2. Each Customs Administration shall execute requests for assistance made pursuant to this Agreement in accordance with and subject to the limitations of its domestic law and regulations, and within the limits of its competence and available resources.

3. This Agreement is intended solely for mutual legal assistance between the Parties; the provisions of this Agreement shall not give rise to a right on the part of any private person to obtain, suppress, or exclude any evidence, or to impede the execution of a request.

4. This Agreement is intended to enhance and supplement mutual assistance practices in effect between the Parties. No provision in this Agreement may be interpreted in a manner that would restrict agreements and practices relating to mutual assistance and cooperation in effect between the Parties.

ARTICLE 3

SCOPE OF GENERAL ASSISTANCE

1. Upon request, a Customs Administration shall provide assistance in the form of information in order to ensure the enforcement of the customs laws and the accurate assessment of customs duties and other taxes by the Customs Administrations.

2. Upon request or upon its own initiative, a Customs Administration may provide assistance in the form of information, including but not limited to information concerning:

   a. methods and techniques of processing passengers and cargo;
   b. the successful application of enforcement aids and techniques;
   c. enforcement actions that might be useful to suppress offenses and, in particular, special means of combating offenses; and
   d. new methods used in committing offenses.

3. The Customs Administrations shall cooperate in:

   a. establishing and maintaining channels of communication to facilitate the secure and rapid exchange of information;
   b. facilitating effective coordination;
   c. the consideration and testing of new equipment or procedures; and
   d. any other general administrative matters that may from time to time require their joint action.

ARTICLE 4

SCOPE OF SPECIFIC ASSISTANCE

1. Upon request, the Customs Administrations shall inform each other whether goods exported from the territory of one Party have been lawfully imported into the territory of the other Party. If requested, the information shall contain the customs procedure used for clearing the goods.

2. Upon request, a Customs Administration shall exercise special surveillance of:

   a. persons known to the requesting Party to have committed a customs offense or suspected of doing so, particularly those moving into and out of its territory;

   b. goods either in transport or in storage identified by the requesting Party as giving rise to suspected illicit traffic toward or through its territory; and

   c. means of transport suspected of being used in offenses within the territory of the requesting Party.

3. Upon request, the Customs Administrations shall furnish to each other information regarding activities that may result in offenses within the territory of the other Party. In situations that could involve substantial damage to the economy, public health, public security, or similar vital interest of the other Party, the Customs Administrations, wherever possible, shall supply such information without being requested to do so. Nothing in this Agreement otherwise precludes the Customs Administrations from providing on their own initiative information regarding activities that may result in offenses within the territory of the other Party.

4. The Parties may provide assistance through the use of provisional measures and forfeiture, and in proceedings involving property subject to provisional measures or forfeiture.

5. The Parties may, consistent with this Agreement and with other agreements between them pertaining to the sharing and disposition of forfeited assets:

   a. dispose of property, proceeds, and instrumentalities forfeited as a result of assistance provided under this Agreement in accordance with the domestic law of the Party in control of the property, proceeds, and instrumentalities; and

   b. to the extent permitted by their respective domestic laws, and without regard to the requirement of reciprocity, transfer forfeited property, proceeds, or instrumentalities, or the proceeds of their sale, to the other Party upon such terms as may be agreed.

ARTICLE 5

FILES AND DOCUMENTS

1. Upon request, the Customs Administrations shall provide information relating to transportation and shipment of goods showing value, destination, and disposition of those goods.

2. A requesting Administration may request originals of files, documents, and other materials only where copies would be insufficient. Upon request, the requested Administration shall provide properly certified copies of such files, documents, and other materials.

3. Unless the requesting Administration specifically requests originals or copies, the requested Administration may transmit computer-based information in any form. The requested Administration shall supply all information relevant for interpreting or utilizing computer-based information at the same time.

4. If the requested Administration agrees, officials designated by the requesting Administration may examine, in the offices of the requested Administration, information relevant to an offense and make copies thereof or extract information therefrom.

5. Originals of files, documents, and other materials that have been transmitted shall be returned at the earliest opportunity; any rights of the requested Party or of third parties relating thereto shall remain unaffected.

ARTICLE 6

WITNESSES

1. The requested Administration may authorize its employees to appear as witnesses in judicial or administrative proceedings in the territory of the other Party and to produce files, documents, or other materials or certified copies thereof.

2. Where a customs official requested to appear as a witness is entitled to diplomatic or consular immunity, the requested Party may agree to a waiver of immunity under such conditions as it determines to be appropriate.

ARTICLE 7

COMMUNICATION OF REQUESTS

1. Requests pursuant to this Agreement shall be made in writing directly between officials designated by the Heads of the respective Customs Administrations. Information deemed useful for the execution of requests shall accompany the request. In urgent situations, oral requests may be made and accepted, but shall be promptly confirmed in writing as expeditiously as possible, but no later than 10 days from the date of the oral request.

2. Requests shall include:

   a. the name of the authority making the request;

   b. the nature of the matter or proceedings;

   c. a brief statement of the facts and offenses involved;

   d. the reason for the request; and

   e. the names and addresses of the parties concerned in the matter, or proceeding, if known.

ARTICLE 8

EXECUTION OF REQUESTS

1. The requested Administration shall take all reasonable measures to execute a request and shall endeavor to secure any official measure necessary for that purpose.

2. If the requested Administration is not the appropriate agency to execute a request, it shall promptly transmit it to the appropriate agency and so advise the requesting Administration.

3. The requested Administration shall conduct to the fullest extent possible, or permit the requesting Administration to conduct, such inspections, verifications, fact-finding inquiries, or other investigative steps, including the questioning of experts, witnesses, and persons suspected of having committed an offense, as are necessary to execute a request.

4. Upon request, the requesting Administration shall be advised of the time and place of action to be taken in execution of a request.

5. Upon request, the requested Party shall authorize, to the fullest extent possible, officials of the requesting Party to be present in the territory of the requested Party to assist in execution of a request.

6. The requested Administration shall comply with a request that a certain procedure be followed to the extent that such procedure is not prohibited by the domestic law of the requested Party.

ARTICLE 9

LIMITATIONS OF USE

1. Information obtained under this Agreement shall be afforded the same degree of confidentiality by the receiving Party that it applies to similar information in its custody.

2. Information obtained under this Agreement may only be used or disclosed for the purposes specified in this Agreement, including use by the receiving Party in any proceedings. Such information may be used or disclosed for other purposes or by other authorities of the receiving Party if the supplying Customs Administration has expressly approved such use or disclosure in writing.

3. Information received by either Party shall upon request of the supplying Party, be treated as confidential. The reasons for such a request shall be stated.

4. This Article shall not preclude the use or disclosure of information to the extent that there is an obligation to do so under the Constitution of the receiving Party in connection with a criminal prosecution. The receiving Party shall give advance notice of any such proposed disclosure to the supplying Party.

5. Information made public in the territory of the receiving Party under paragraphs 2 and 4 of this Article may be used for any purpose.

ARTICLE 10

EXEMPTIONS

1. Where a requested Party determines that granting assistance would infringe upon its sovereignty, security, public policy or other substantive national interest, or would be inconsistent with its domestic law and regulations, including any legal requirement relating to non-compliance with assurances regarding limitations on use or confidentiality, it may refuse or withhold assistance, or may grant it subject to the satisfaction of certain conditions or requirements.

2. If the requesting Administration would be unable to comply if a similar request were made by the requested Administration, it shall draw attention to that fact in its request. Compliance with such a request shall be at the discretion of the requested Administration.

3. The requested Administration may postpone assistance on the ground that it will interfere with an ongoing investigation, prosecution, or proceeding. In such instance, the requested Administration shall consult with the requesting Administration to determine if assistance can be given subject to such terms or conditions as the requested Administration may require.

4. In the event that a request cannot be complied with, the requesting Administration shall be promptly notified and provided with a statement of the reasons for postponement or denial of the request. Circumstances that might be of importance for the further pursuit of the matter shall also be provided to the requesting Administration.

ARTICLE 11

COSTS

1. The Requested Party shall normally pay all costs relating to the execution of the request, with the exception of expenses for experts and witnesses and the costs of translation, interpretation and transcription.

2. If during the execution of a request it becomes apparent that completion of the execution of the request will entail expenses of an extraordinary nature, the Customs Administrations shall consult to determine the terms and conditions under which execution may continue.

ARTICLE 12

IMPLEMENTATION OF THE AGREEMENT

1. The Customs Administrations of the Parties shall:

   a. communicate directly for the purpose of dealing with matters arising out of this Agreement;

   b. after consultation, issue any administrative directives necessary for the implementation of this Agreement; and

   c. endeavor by mutual accord to resolve problems or questions arising from the interpretation or application of the Agreement.

2. Conflicts for which no solutions can be found will be settled by diplomatic means.

3. The Customs Administrations of the Parties agree to meet periodically as necessary at the request of either Party in order to review the implementation of this Agreement.

ARTICLE 13

APPLICATION

This Agreement shall be applicable to the Customs territories of both Parties as defined in their domestic legal and administrative provisions.

ARTICLE 14

ENTRY INTO FORCE AND TERMINATION

1. This Agreement shall enter into force upon signature.

2. Either Party may terminate this Agreement at any time by notification through diplomatic channels. The termination shall take effect three months from the date of notification of termination to the other Party. Ongoing proceedings at the time of termination shall nonetheless be completed in accordance with the provisions of this Agreement.

3. This Agreement may be amended at any time by mutual written agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE, in duplicate, in Washington, DC on the 25 day of October 2007 in the English language.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

W. Ralph Basham

FOR THE GOVERNMENT OF THE REPUBLIC OF MAURITIUS: